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UNCLAS VIENNA 000847

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TREASURY FOR DEANNA FERNANDEZ
TREASURY PASS FINCEN AND SEC/JACOBS

E.O. 12958: N/A
TAGS: [EFIN](#) [KCRM](#) [AU](#)
SUBJECT: Stung by Critique, Austria Now Working on FATF Action Plan
-- Signs of Progress

REF: Froats-Fernandez emails

Sensitive but unclassified -- protect accordingly.

11. (SBU) SUMMARY: Stung by their grilling at the Financial Action Task Force/FATF Plenary in Lyon, the Austrian government is determined to improve its anti-money laundering and counter-terrorist financing standards to avoid de facto "black listing" by the FATF. END SUMMARY.

12. (SBU) Over the past year, the Financial Action Task Force/FATF (in cooperation with the IMF) has evaluated Austria's anti-money laundering and counter-terrorist financing (AML/CFT) standards. The draft Mutual Evaluation Report/MER reportedly sparked a heated discussion at the FATF Plenary June 22-26 in Lyon, with USG representatives leading the criticism of various deficiencies and loopholes in Austria's AML/CFT implementation. According to GoA sources, the FATF's final mutual evaluation report (whose summary will be released soon) will identify a number of shortcomings in compliance with the 40-plus-9 FATF Recommendations. In a worst-case scenario, the FATF President would issue a written statement in early 2010 that (in effect) Austria does not fully implement essential AML/CFT standards.

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Austria Developing AML/CFT Roadmap
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13. (SBU) Austrian FinMin contacts say the GoA wants to avoid identification under the FATF's new de facto "black list" procedure and will therefore compile, by the autumn, a roadmap towards full compliance (since actual implementation of many measures will require cabinet and/or parliamentary approval). Austria has no separate money laundering law -- rather, its AML/CFT measures fall under a number of laws including the Criminal Code, Banking Act, Stock Exchange Act, Securities Supervision Act, Insurance Act, Gambling Act, and Business Code. As a result, improved anti-money laundering and counter-terrorist financing measures will require a number of legal amendments, each of which requires separate Parliamentary approval (NOTE: by simple majority vote in each case -- unlike measures to dilute banking secrecy).

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COMMENT
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14. (SBU) In conversations over the past week with Austrian Finance Ministry, Financial Market Authority (FMA), and central bank (OeNB) contacts, all have expressed dismay over the heated criticism of Austria in Lyon, particular from the U.S. delegation. Some here see the grilling as founded partly in misunderstandings: for instance, Austrian FMA co-Director Helmut Ettl pointed out that Austria has "no money-laundering convictions" because its penal code only records conviction for an individual's most serious crime -- which in AML cases is almost always fraud or another predicate offense, not money-laundering per se. GoA contacts asked to work with Post

and USG agencies to ensure a good flow of information on Austria's AML/CFT standards -- both positive and negative -- to avoid unnecessary friction.

¶5. (SBU) GoA regulators are serious about plugging gaps in Austria's AML/CFT regime, which should soon become clear in the implementation roadmap it prepares before the Paris plenary in mid-October. That said, they will no doubt continue to lobby against "singling out" Austria for inclusion on a de facto black list alongside some of the world's most uncooperative and loosely regulated jurisdictions.

¶6. (SBU) We expect substantial changes in Austria, starting with an AML/CFT roadmap. Combined with Austria's recent OECD commitment to improve information-sharing in international tax cases -- i.e. sharply limiting bank secrecy for foreign depositors in Austria -- it suggests that substantial progress is in the pipeline for the USG's financial sector agenda in Austria.

HOH